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BIG PINE PAIUTE TRIBE OF THE OWENS VALLEY  
Big Pine Indian Reservation

RECEIVED

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October 3, 2001

Carol Hanlon  
U.S. Department of Energy  
Yucca Mountain Site Characterization Office, (M/S #025)  
P.O. Box 30307  
North Las Vegas, NV 89036-0307

RE: "Possible Site Recommendation for Yucca Mountain"

Dear Ms. Hanlon:

The U.S. Department of Energy (DOE) published a notice of public comment closure in the Federal Register on August 21, 2001 regarding the Yucca Mountain Preliminary Site Suitability Evaluation for a proposed geologic repository for the disposal of spent nuclear fuel and other high-level radioactive waste at Yucca Mountain in Nevada.

The Big Pine Paiute Tribe of the Owens Valley still maintains close historic and cultural ties with the Yucca Mountain Range. The Paiute people regard the total ecosystem as a living entity and the spirits and beings that dwell there to this day are still meaningful to us. Many tribal people indigenous to the Yucca Mountain region have informed DOE officials that this area has special meaning and expressed opposition to the proposed Yucca Mountain project.

In response to the comment closure notice, the Big Pine Paiute Tribe of the Owens Valley has enclosed comments on the Yucca Mountain Preliminary Site Suitability Evaluation. If you should have any questions about this letter or enclosure, please contact Alan Bacock of my staff at 760-938-3056.

Sincerely,

Jessica Bacock  
Tribal Chairperson

Enclosure: Yucca Mountain Preliminary Site Suitability Evaluation Comments

**Big Pine Paiute Tribe of the Owens Valley  
Comments on the U.S. Department of Energy's "Yucca Mountain  
Preliminary Site Suitability Evaluation"**

This enclosure provides comments on the U.S. Department of Energy's (DOE) "Yucca Mountain Preliminary Site Suitability Evaluation" (PSSE) by the Big Pine Paiute Tribe of the Owens Valley (Tribe).

**Comment No. 1**

On August 21, 2001 the DOE issued a notice in the Federal Register on the planned Yucca Mountain "Site Recommendation Consideration Hearings and End of Public Comment Period", together with an announcement of the availability of the Yucca Mountain PSSE. The announcement states that "the PSSE contains a preliminary evaluation of the suitability of the Yucca mountain site for development as a geologic repository based on the DOE's proposed site suitability regulations, to be codified as 10 CFR 963." Since the DOE has an existing set of site suitability regulations, codified as 10 CFR 960, please explain why the DOE is not evaluating the Yucca Mountain site under those regulations, and providing the public the opportunity to see the DOE's evaluation of the site under those regulations.

The Tribe finds that basing an evaluation of the Yucca Mountain site on proposed regulations, when there are existing regulations that have gone through the public notice and comment process and have been codified since 1984 violates not only the Administrative Procedures Act, but also the public trust. Therefore, the Tribe insists the DOE immediately suspend the current notice that is in the Federal Register, conduct an evaluation of the Yucca Mountain site under the 10 CFR 960 guidelines, and publish the results of that evaluation in the Federal Register for public review and comment.

**Comment No. 2**

The PSSE fails to include the transportation of spent nuclear fuel and high level waste to the proposed Yucca Mountain Repository. The Draft Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste (DEIS) previously submitted by the DOE identifies the transportation of spent nuclear fuel and high level waste as one component necessary for a repository. Therefore, transportation is a connected action and should be considered an integral part of the PSSE.

The DOE identified and evaluated potential highway and rail routes within the state of Nevada in 1986. DOE's 1986 Environmental Assessment for Yucca Mountain and candidate sites in four other states concluded that Yucca Mountain was the worst possible location from a transportation perspective. DOE documented that Yucca Mountain had the poorest access to the National Interstate Highway and Mainline Railroad Networks, and the most difficult rail access construction requirements. DOE'S 1986 Comparative Analysis also showed that the selection of Yucca Mountain would result in the highest cross-country transportation requirements, highest total transportation costs, and the highest projected number of transportation accident injuries and fatalities.

**Comment No. 3**

The final Environmental Impact Statement for the Yucca Mountain project is not yet available. The DEIS, issued in July 1999, elicited approximately 11,000 comments that have not been addressed.

Tribes have set-aside a lot of time and energy to participate in the suitability of the Yucca Mountain project, yet we have received no response from the DOE on our comments to the DEIS and our significant concerns have not been addressed. It now appears that our comments to the DEIS are considered irrelevant due to the fact that the Secretary of Energy may recommend the Yucca Mountain site regardless of the DEIS. Tribes cannot have confidence in an agency that seems to consider approval of the Yucca Mountain site a foregone conclusion without tribal input.

The DOE, according to the DEIS, has not yet chosen a preferred design alternative; therefore, the DEIS cannot adequately assess the potential environmental impacts of a nuclear waste repository at Yucca Mountain. How can the DOE describe what the impacts will be when it does not even know what the design of the repository will be? How can the President and Congress and the Nuclear Regulatory Commission make informed decisions about whether or not to recommend and license Yucca Mountain as the site for a nuclear waste repository if it is not clear what it will look like and how "hot" it will be? The DOE has a responsibility to choose a design alternative and describe what the impacts of that chosen design will be on the environment and on public health and safety. Since the DEIS was published, the DOE has explored design alternatives that are not even described in the DEIS. The Secretary of Energy should choose its design for Yucca Mountain, clearly describe it and accurately assess the impacts in the DEIS before submitting a recommendation for site development to the President.

The Big Pine Paiute Tribe of the Owens Valley does not believe that Secretary of Energy Spencer Abraham should proceed with a recommendation to develop a nuclear waste repository at Yucca Mountain. According to a DOE News bulletin on Tuesday, August 21, 2001 entitled, "Secretary Abraham Reaffirms the Department of Energy's Government-to-Government Relations with American Indian Tribal Governments" it quotes Secretary Abraham as saying that "we must include tribal participation in the decision making process where our action may impact their environmental and cultural interest." If Secretary Abraham determines that the Yucca Mountain site is suitable without addressing previous concerns by Tribes, then the United States Federal Government has failed to meet its trust responsibility with Native American Governments. Native American concerns must be addressed before submitting a recommendation to the President. Our people have called this beautiful part of the United States home for generations and we are the people who will have to live with the effects of a poorly planned nuclear repository at Yucca Mountain.

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